

June 30, 2004

VIA HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RECEIVED

JUN 30 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: GlobalRock Networks, Inc.
Petition for Rule Waiver: CC Docket 96-128

Dear Ms. Dortch:

On behalf of GlobalRock Networks, Inc. ("GlobalRock"), attached please find the original, plus four copies and a copy for date stamping, of the above-referenced Petition for Rule Waiver. A facsimile copy of GlobalRock's verification certificate is attached to this Petition for Rule Waiver. The original signed verification certificate will be filed under separate cover.

Thank you for your attention to this matter. If you have any questions, kindly contact the undersigned counsel.

Sincerely,



Ronald E. Quirk, Jr.
Counsel to GlobalRock Networks, Inc.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

RECEIVED

JUN 30 2004

In the Matter of)

The Pay Telephone Reclassification and)
Compensation Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-128

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR WAIVER

GlobalRock Networks, Inc. ("GlobalRock"), by its attorneys and pursuant to Sections 1.3 and 1.46 of the Commission's rules,¹ hereby requests limited waiver of the pay telephone call tracking audit and filing requirements set forth in Section 64.1320 of the Commission's rules,² as amended by the Commission's Payphone Compensation Order, released October 3, 2003.³ Specifically, GlobalRock requests a three month extension, until October 1, 2004, of the system audit report filing deadline, currently set for July 1, 2004. GlobalRock also requests waiver of any late filing penalties that may otherwise apply.⁴ In support hereof, the following is respectfully shown.⁵

I. Factual Background

GlobalRock is a small prepaid telephone card provider that leases switches to route and complete calls. As such, GlobalRock is classified by the Commission as a "switch-based reseller" ("SBR"), subject to the Commission's pay telephone compensation rules, including 47 C.F.R. § 64.1320.⁶ Section 64.1320 of the Commission's rules states, inter alia, that SBRs must

¹ 47 C.F.R. §§ 1.3, 1.46.

² See 47 C.F.R. § 64.1320.

³ See The Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, 18 FCC Rcd 199975 (2003) (18 FCC Rcd 199975 (2003) (the Payphone Compensation Order)).

⁴ The current base penalty for failure to file required forms or information with the Commission is \$3,000. See 47 C.F.R. § 1.80(b)(4).

⁵ A certification by GlobalRock's President Stuart Sleppin, attesting to the facts stated herein, is attached hereto.

⁶ See Payphone Compensation Order at n.1.

undergo an audit of their payphone call tracking systems by a third-party auditor, and, as of the effective date of the new payphone compensation rules, file a system audit report with: (a) the Commission; (b) each payphone service provider (“PSP”) for which it completes calls; and (c) each facilities-based long distance carrier from which it receives payphone calls.⁷ On May 11, 2004, the Commission announced that the effective date of the new payphone rules would be July 1, 2004.⁸

For several months, GlobalRock has attempted to secure a third-party auditor to review its payphone call tracking system and prepare its report. Due to the large number of SBRs that were retaining auditors to prepare their system audit reports, GlobalRock was unable to find a qualified auditor that could complete its system audit report by the July 1 deadline. The auditor that GlobalRock was able to retain informed GlobalRock that he would require an additional three months to prepare a full audit report that complies with the Commission’s rules.

Additionally, because GlobalRock’s very limited internal resources have been occupied with other financial and regulatory matters (e.g., quarterly financial audits and tax matters) GlobalRock has been unable, until recently, to devote the necessary staff and finances to assist the auditor in completing the system audit report.

In spite of the aforementioned unanticipated delays, GlobalRock has undertaken substantial efforts to timely comply with the FCC’s new payphone compensation rules. In addition to actively seeking and retaining a qualified auditor, GlobalRock has already fully implemented a call tracking system that complies with Section 64.1310 of the Commission’s Rules.⁹ This implementation included making arrangements with a payphone compensation

⁷ See 47 C.F.R. § 64.1320 (a)(b).

⁸ See “New Payphone Compensation Rules Will Go Into Effect on July 1, 2004,” CC Docket No. 96-128, Public Notice (rel. May 11, 2004).

⁹ See 47 C.F.R. § 64.1310.

clearinghouse to assist GlobalRock in complying with its new payphone compensation requirements, e.g., the compilation and disbursement of compensation to PSPs.

II. Supporting Authorities

Grant of this Waiver Request will serve the Commission's articulated policies and is warranted.¹⁰ As stated by the U.S. Court of Appeals for the D.C. Circuit, "A general rule, deemed valid because its overall objectives are in the public interest, may not be in the 'public interest' if extended to an applicant [whose proposal] will not undermine the policy, served by the rule, that has been adjudged in the public interest."¹¹

The Commission is certainly empowered to grant waivers of its rules. "The agency's discretion to proceed in difficult areas through general rules is intimately linked to the existence of a safety valve procedure for consideration of an application for exemption based on special circumstances."¹² Such "special circumstances" are present in this case.

A. Unique Circumstances Warrant Grant of this Waiver Request.

During the past few months, GlobalRock has had to scramble to compete with countless other SBRs to find a qualified auditor. GlobalRock previously utilized an internal auditor to perform its auditing tasks, but because the new payphone compensation rules require an independent, third-party auditor to perform the system audit,¹³ GlobalRock was forced to find an outside auditor that was familiar with the FCC's payphone compensation requirements. In its search for an auditor, GlobalRock discovered that: (a) such qualified auditors were difficult to find; and (b) those that could (or were willing to) perform a system audit report had very heavy workloads which prevented them from timely conducting GlobalRock's system audit and

¹⁰ See WAIT Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (citations omitted).

¹¹ Id.

¹² Id.

¹³ See 47 C.F.R. § 64.1320(a).

preparing the required report. GlobalRock recently managed to retain a qualified auditor, but, due to that auditor's crushing workload, GlobalRock's audit report will require an additional three months to complete.

The new comprehensive payphone compensation regime necessitated that GlobalRock obtain the services of a payphone clearinghouse, which will assist GlobalRock (which lacks the internal resources to unilaterally reconcile its payphone compensation duties on a nationwide basis) in making a successful transition to the new rules.¹⁴ Because the effective date of the new rules was not announced until May 11, 2004, it wasn't until very recently that GlobalRock and the payphone clearinghouse finalized their contractual relations.

Moreover, due to other pressing financial and regulatory matters, GlobalRock has not, until recently, been able to devote its very limited internal resources toward assisting an auditor in preparing the systems audit report. Most of the other time-sensitive duties have recently been completed, and GlobalRock is now able to focus its resources on completing the systems audit report.

B. Grant of this Waiver Request Comports with the FCC's Policy.

The Commission promulgated its new payphone compensation rules for the purpose of effectuating Section 276 of the Communications Act of 1934, as amended (the "Act"), which requires the Commission to prescribe regulations to ensure that PSPs are fairly compensated for every completed interstate and intrastate call.¹⁵ The system audit requirement is intended to "ensure the accuracy of the SBR's call tracking system" so that PSPs are fairly compensated.¹⁶

¹⁴ The Commission has acknowledged the importance of the role payphone clearinghouses play in assisting SBRs to transition to the new payphone regulatory regime. See Payphone Compensation Order at n.116.

¹⁵ See Payphone Compensation Order at ¶ 37, citing 47 U.S.C. § 276.

¹⁶ Id. at ¶ 37.

Permitting GlobalRock an additional three months to complete its audit report comports with the Commission's stated policy by allowing GlobalRock's auditor to compile the necessary information and complete an accurate audit report that thoroughly describes GlobalRock's tracking system, and how it will be operated to ensure that PSPs are fairly compensated in a timely fashion.

Moreover, grant of this waiver request will not harm any third party, because GlobalRock has already implemented its call tracking system. Consequently, the PSPs who are entitled to compensation from GlobalRock will be timely compensated for completed calls during the three month waiver period.

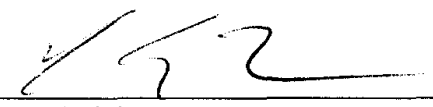
III. Conclusion

For all the foregoing reasons, GlobalRock Networks, Inc. respectfully requests that the Commission grant this Petition for Waiver, including: (a) a limited waiver of the audit and filing requirements of 47 C.F.R. § 64.1320 until October 1, 2004; and (b) waiver of any late-filing penalties.

Respectfully submitted,

GLOBALROCK NETWORKS, INC.

By: _____


Frederick M. Joyce
Ronald E. Quirk, Jr.

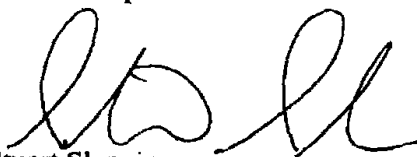
Its Attorneys

Venable LLP
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Washington, DC 20004-1601
(202) 344-4000 (tel)
(202) 344-8300 (fax)

Date: June 30, 2004

VERIFICATION CERTIFICATE

I, Stuart Sleppin, President of GlobalRock Networks, Inc., do hereby declare under penalty of perjury that I have read the foregoing Petition for Waiver; that I am acquainted with the facts of this matters addressed therein, and that, to the best of my knowledge, information and belief, the information contained therein is true and complete.

A handwritten signature in black ink, appearing to read 'Stuart Sleppin', is written over the printed name.

Stuart Sleppin
President
GlobalRock Networks, Inc.

June 30, 2004